

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JAMES C. CAVANAUGH

	Plaintiff,	ANSWER
vs.		Civil Action No.:
		09-CV-0422-A
NATIONAL RECOVERY SOLUTIONS, LLC		
	Defendant.	

The defendant, National Recovery Solutions, LLC, by its attorneys, DAMON & MOREY LLP, for its answer to Plaintiff's Complaint, alleges upon information and belief:

1. Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraphs 1, 4, 7, 8, 9, 10, 11 and 14 of plaintiff's Amended Complaint.
2. Admits those allegations as contained in paragraphs 3, 5 and 6 of plaintiff's complaint.
3. Denies those allegations as contained in paragraphs 2, 12, 13, 15, 16, 18A, 18B, 18C and 19 of plaintiff's complaint.
4. In answering paragraph 17 of the Plaintiff's Amended Complaint, this answering Defendant repeats and realleges each and every admission or denial of the allegations contained in the foregoing paragraphs referred to therein, with the same force and effect as though fully set forth herein.
5. Denies each and every other allegation of the complaint not hereinbefore specifically admitted or otherwise denied.

AFFIRMATIVE DEFENSES:

6. Plaintiff has failed to state a claim upon which relief may be granted.
7. Plaintiff is not entitled to an award of attorneys' fees under any theory of law.
8. Defendant National Recovery Solutions, LLC pleads the affirmative defense of setoff.
9. Defendant pleads the affirmative defense of waiver and estoppel.
10. Defendant pleads that even if the events alleged in the Complaint are true, they were the result of bona fide error(s).

WHEREFORE, this answering defendant demands judgment dismissing the complaint in its entirety; dismissing the complaint in its entirety based upon plaintiff's assumption of risk; that the plaintiffs' damages, if any, be diminished in the proportion to which the culpable conduct attributable to the plaintiff bears to the culpable conduct which caused the alleged damages, together with the costs and disbursements of the action.

Dated: Buffalo, New York
June 23, 2009

DAMON & MOREY LLP

By: /s/ John P. Ford
John P. Ford, Esq. (2216)
Attorneys for Defendant
Victoria's Secret Stores, LLC
1000 Cathedral Place
298 Main Street
Buffalo, New York 14202-4096
Telephone: (716) 856-5500
jford@damonmorey.com

TO: LAW OFFICES OF KENNETH R. HILLER, ESQ.
Kenneth R. Hiller, Esq.
Attorneys for Plaintiff
6000 North Bailey Avenue, Suite 1A
Amherst, NY 14226

CERTIFICATE OF SERVICE

JOHN P. FORD, ESQ., certifies pursuant to CPLR §2106, that on the 23rd day of June, 2009, he served a true copy of the attached Answer by first class mail on plaintiff's counsel at his address as indicated below:

LAW OFFICES OF KENNETH R. HILLER, ESQ.

Kenneth R. Hiller, Esq.

Attorneys for Plaintiff

6000 North Bailey Avenue, Suite 1A

Amherst, NY 14226

/s/ John P. Ford

John P. Ford, Esq. (2216)